



OFFICE *of the* ATTORNEY GENERAL  
GREG ABBOTT

August 14, 2003

Ms. Lisa M. Salinas  
Custodian of Records  
Baytown Police Department  
3200 North Main Street  
Baytown, Texas 77521

OR2003-5676

Dear Ms. Salinas:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 185937.

The Baytown Police Department (the "department") received a request for the police report pertaining to case number 03-219-80. You claim that a portion of the requested information is excepted from disclosure under sections 552.117 and 552.1175 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.117(a)(2) of the Government Code excepts from disclosure information that relates to the home address, home telephone number, or social security number of a peace officer,<sup>1</sup> or that reveals whether the peace officer has family members. We note, however, that the protections of section 552.117 only apply to information that the department holds in its capacity as an employer. Because the department does not hold the submitted information as the individual's employer, section 552.1175, which also applies to current peace officers, is the applicable exception under these circumstances. This section provides in part that

(b) Information that relates to the home address, home telephone number, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may

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<sup>1</sup>The term peace officer is defined by Article 2.12, Code of Criminal Procedure.

not be disclosed to the public under this chapter if the individual to whom the information relates:

- (1) chooses to restrict public access to the information; and
- (2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(b). However, you do not inform this office, nor does any of the submitted information indicate, whether the individual whose information is at issue is a licensed peace officer who has notified the department of his election of confidentiality for this information in accordance with the above-cited subsections 552.1175(b)(1) and (2). *See, e.g.,* Open Records Decision No. 678 (2003) (concluding that county voter registrar was authorized to release voter information made confidential under section 552.1175 of Government Code to another governmental entity, but that transferred information would not be confidential in possession of transferee until recipient governmental entity receives a section 552.1175 notification). If the individual is currently a licensed peace officer who complies with section 552.1175(b), the department must withhold the highlighted information. If not, the department must release this information.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877)673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512)475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

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CN/jh

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Enc. Submitted documents

c: Ms. Melissa Sanchez  
7906 Cheyenne Court  
Baytown, Texas 77521  
(w/o enclosures)